



No. 1996.

MAY 6 1898
JAMES H. McKENNA

Motion to advance.
Filed May 6, 1898.

In The Supreme Court of the United States

OCTOBER TERM, 1897.

No. 486.

THE SECURITY TRUST COMPANY, as assignee
of D. D. Merrill Company, insolvent,

Plaintiff in Error,

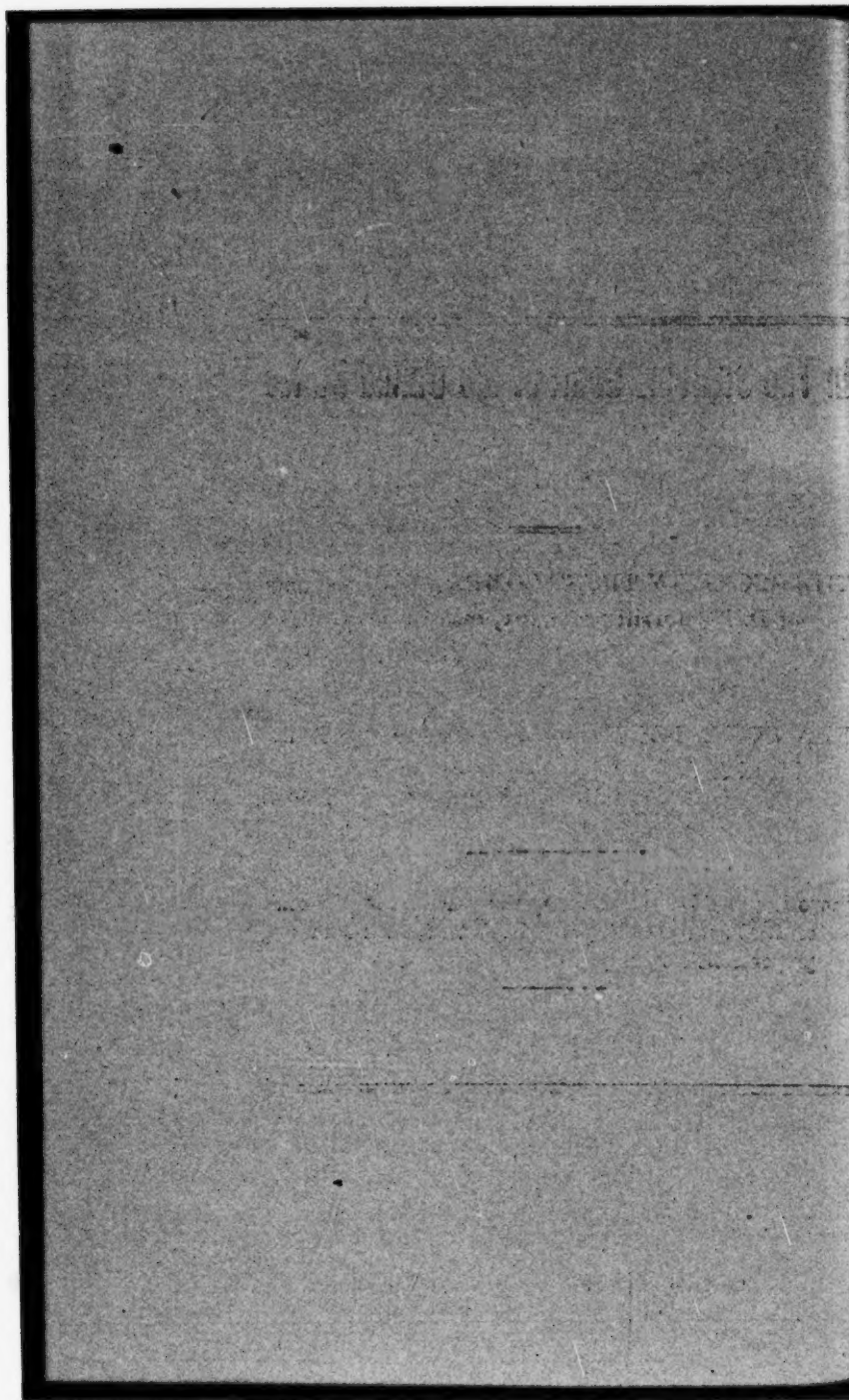
vs.

FRANK H. DODD et al., copartners as Dodd,
Mead & Co.,

Defendants in Error.

Propositions of law certified by the United States circuit
court of appeals for Eighth Circuit for instruction for its
proper decision.

MOTION TO ADVANCE.



In The Supreme Court of the United States

OCTOBER TERM, 1897.

No. 495.

THE SECURITY TRUST COMPANY, as assignee
of D. D. Merrill Company, insolvent,
Plaintiff in Error,
vs.

FRANK H. DODD et al., copartners as Dodd,
Mead & Co.,
Defendants in Error.

Propositions of law certified by the United States circuit
court of appeals for Eighth Circuit for instruction for its
proper decision.

MOTION TO ADVANCE.

*To the Honorable, the Supreme Court of the
United States:*

In 1893 the D. D. Merrill Company, a corporation, citizen of Minnesota, having its principal place of business in Minnesota, made an assignment pursuant to the provisions of the statutes of Minnesota, chapter 148, Laws 1881, as amended, (see General Statutes 1894, Sec. 4240-54), to the plaintiff in error, also a citizen and resident of Minnesota, to pay and discharge in the order and precedence provided by law, all the debts and liabilities

ties of the assignor to all its creditors who should file releases of their debts and claims against the assignor according to said chapter 148, Laws of 1881, and the laws amendatory and supplementary thereof. At the date of this assignment certain property of the insolvent debtor was situated in the state of Massachusetts, and subsequent to the assignment the defendants in error, citizens and residents of New York and New Jersey, commenced an action against the insolvent corporation in a state court of Massachusetts upon certain bills of exchange and promissory notes which it was obligated to pay, and in such suit the personal property above mentioned was seized on attachment, and thereafter, on September 27, 1894, sold under execution on the judgment entered in that action, and at such sale purchased by the defendants in error. In October, 1894, the plaintiff in error commenced this suit in a state court of Minnesota to recover ten thousand dollars (\$10,000), the value of the property so seized and sold as damages for the conversion thereof, and the defendants in error removed the suit into the United States circuit court for the District of Minnesota. The trial court gave judgment for the defendants in error. The case was taken by a writ of error to the United States circuit court of appeals for the Eighth circuit, and that court certified to this court two questions of law, concerning which it desires the instruction of this court. The questions in substance are:

Did the assignment, *ipso facto*, operate to vest in the plaintiff in error the title to the personal property situate in Massachusetts?

Did the assignment, and notice thereof to the bailee of the property, operate to vest in plaintiff in error the title to the personal property situate in Massachusetts, as against the attachment issued out of the state court of Massachusetts at the suit of the defendants in error, residents and citizens of New York and New Jersey?

To wait until the case shall be reached in its regular order on the call of the docket of this court for the questions certified to be answered will delay the determination of the case until long after the plaintiff in error had a right to expect a decision, and until long after a decision would have been rendered in the ordinary course, and in this particular instance will defeat one of the main objects of the establishment of the circuit court of appeals, i. e., that suitors might have their causes finally determined in a reasonable time and in such time that a final determination might be of some use to them, and will unduly delay the settlement of the insolvent estate and embarrass the state court in its administration of the insolvent estate. The determination of the effect to be given such assignments outside of the state where made, and whether it is competent for the courts of a sister state, under the constitution of the United States, to permit its own citizens to disregard such an assignment while denying such privilege to citizens of other states, is of considerable public importance. Also, an appellate court having a statutory right to apply to this court for information as to the law to enable it to decide a cause pending before it, it would seem that such application when made should be granted

and the information furnished at an early day so as to enable that court to dispose of the case within a reasonable time after it has been argued and submitted for decision; and especially is this so, because in such case the parties are on a different footing from those in an ordinary cause pending in this court, in that, ordinarily the parties voluntarily have resorted to this court, while in this case the parties have not brought the case into this court, but the court whose decision the parties have sought has sent the case here for its information.

For the foregoing reasons, and because in this case such special and peculiar circumstances are found as make it a proper case to be advanced on the docket under rule 26 of this court, subd. 7,—
Plaintiff now moves the court to advance said cause on the docket and set the same down for oral argument for some day in the first week of the October term, 1898.

Edmund S. Lument
 Attorney for Plaintiff in Error.

The defendants in error hereby waive issuance of notice of the foregoing notice and service thereof, notice of the foregoing motion and service thereof, and respectfully ask that the motion be granted and the case advanced and set down for hearing as prayed.

James E. Markham
 Counsel for Defendants in Error.